

**AGRICULTURAL LAND
PRESERVATION TOOL BOX**

RECOMMENDATIONS

TO THE

CACHE COUNTY

PLANNING COMMISSION

AND

COUNTY COUNCIL

FROM THE

CACHE COUNTY AGRICULTURAL ADVISORY BOARD

**Adopted by the Agricultural Advisory Board
December 2, 2003**

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I. CONTENTS AND PURPOSE

This report consists of recommendations from the Cache County Agricultural Advisory Board to the Cache County Planning Commission and County Council for preserving agricultural lands and open spaces in Cache County.

In February of 2002 the Cache County Council appointed the Agricultural Advisory Board to develop tools that could be used to protect the agricultural land base and enhance the agricultural industry. The Agricultural Advisory Board members include ranchers, farmers, representatives from the North Cache and Black Smith Fork Conservation District Boards, one professional planner, one representative from the agricultural processing industry, one citizen advocate of locally grown products for local consumption, one representative from the Cache County Council, one representative from the Mayors Association, one representative from Cache County Planning Commission, one representative from the Development/Realtors/Homebuilders community, one Agricultural Economist from USU, one representative of the business community at large, one representative of the financial industry. (See Appendix 1 for names of Agricultural Advisory Board members) Ex-officio members include the USU Agricultural Extension Agent, Cache County Countywide Planner, staff from USU College of Natural Resources and Dept. of Sociology, Social Work and Anthropology, Natural Resource Conservation Service, Bear River Association of Governments, Bear River RC&D, Cache Metropolitan Planning Organization (CMPO), Cache Chamber of Commerce, Western Rural Development Center, Sustainable Agriculture Association of Bear River Area, Cache County Farm Bureau, Water Quality Advisory Board, Cache County Cattleman's Association, Farmers Union, State Department of Agriculture, State Division of Wildlife Resources. (See Appendix 2 for names of Ex-Officio AAB members)

These individuals have met monthly and some times three times a month to develop a strategy for implementing tools that can work in Cache County, Utah. By tools, we mean techniques that the citizens of Cache County can use to protect open space and agricultural lands. Many of the techniques have been used with success around the country. These tools consist of a combination of means for directing development in a way that preserves the unique character of Cache County.

All Cache County Agricultural Advisory Board meetings are open to the public. The AAB will continue to make their findings available to the public through presentations to elected bodies, service organizations and at community events. As new tools are discovered by the AAB they will be explored to determine viability and shared with the County Council, Planning Commission, and public.

This document describes some agricultural land preservation tools that are already in place, but may need to be implemented, revised, or enforced. It also describes new tools that used in combination could preserve the viability of agriculture as a significant component of Cache County for future generations.

AGRICULTURE AND CACHE COUNTY

Description:

Located in northern Utah, Cache County comprises 1,174 square miles, or 751,360 acres. Roughly half of the county is mountainous, forested and publicly owned. The lower elevation valley lands are predominantly privately owned and used for agriculture. The county now supports 91,400 residents in 19 municipalities and the unincorporated county.

Cache County is one of Utah's leading agricultural counties, consistently ranking Number 1 or 2 in the state for farm gate receipts. Farm-gate sales consistently produce more than \$110 million annually. The 1997 Census reports 266,374 acres of farmland in Cache County. Of that total, 66% of is "cropland" (177,117 acres) and 29% (77,000 acres) is pasture/rangeland. The average farm size was 216 acres, though roughly 4 in 10 farms operate less than 50 acres. Two thirds of the county's farmland, however, is operated by farms over 260 acres. In 1997, sales of livestock and dairy products accounted for 87% of all gross farm sales (\$90 million) while crop sales account for 13% of gross farm sales (\$14 million).

The broader agricultural sector - including agriculture production, services, and processing - generates more in additional output, value added, and employment than any other industry sector in the county. Agriculture produces 26% of all gross economic output in Cache County. Economists estimate that for every \$1 million of agricultural product output, an additional \$830,000 worth of seeds, feed, chemical supplies, equipment, custom work, fuel, etc., will be required to produce those agricultural products. This is the highest "Type 1" multiplier of any industry in Cache County. For every new job created in Cache County's agriculture sector, 2.03 additional jobs are created in the sectors that supply seeds, feed, chemical supplies, equipment, custom work, fuel, as inputs to agricultural production. Likewise, these 2.03 jobs could be lost for each agricultural job lost.

Cache County's population grows by two percent each year. In 2030 the population is projected to be 143,600.

Urban encroachment on farmland has serious implications for the farm sector. As the county's economic base and population has grown, important agricultural lands have been converted to urban uses. Since 1986, Cache County has lost 8,884 acres of prime and statewide important farmland, nearly 14 square miles, to urban development. The current rate of development is consuming over 600 acres of prime and statewide important farmland each year.

As we plan for the future and the most cost efficient means for housing this population growth, it is important to note two things: 1) Housing is most affordable in communities where infrastructure such as water, sewer, roads, and schools are already available and 2) agricultural lands actually subsidize residential development. Studies have shown that farmland in the valley only requires .57 in public services for each dollar paid in property taxes. Meanwhile residential land receives \$1.27 in services for every dollar paid in taxes.

II. TOOLS

What do we mean by “tools”?

“Tools” are techniques that the citizens of Cache County can use to protect open space and agricultural lands. Many of the techniques have been used with success in other parts of the country. They consist of a combination of incentives, market mechanisms, and support for directing development in Cache County in a way that preserves the unique character of the county. The tools described herein are ones that can be used to protect Cache Valley from unsightly sprawl while at the same time encouraging the type of growth and development that is consistent with preserving the county’s agricultural heritage and quality of life.

CACHE COUNTYWIDE COMPREHENSIVE PLAN

Description:

Cache Countywide Comprehensive Plan and Land Use Element was adopted in January 1998 after numerous public meetings were held throughout the county. The Comprehensive Plan describes the values of the different land uses within Cache County. It is designed to coordinate development among the different jurisdictions of the County. The Cache Countywide Comprehensive Plan is to act as a guide to the Cities and County as a decision-making tool. As part of the Comprehensive Plan a number of recommendations were included as implementation policies. These policies included regional coordinating policies and specific policies for the County to take certain action on. The implementation policies direct the County to act on a number of implementation strategies.

Why Selected:

The Countywide Comprehensive Plan identifies agriculture and agricultural industries as an important part of the County's local economy. Agriculture was also identified as playing an important part in the quality of life of the residents of the County. The Plan through a number of different implementation policies recommended the protection of agriculture and the local agricultural industries of the County. The following are some of the implementation policies with goals and strategies:

- Maintain agricultural land and open space and preserve agriculture and the agricultural industry. (Page 109)
- Direct urban sprawl and growth away from non-urban areas of Cache County and preserve and protect the rural atmosphere of non-urban areas. (Page 110)
- Rewrite County Land Use Ordinances to better manage development within Cache County.

Recommended Actions:

- Continue to apply the Implementation Policies of the Comprehensive Plan concerning the preservation of agricultural lands and agricultural industries.
- Update and revise the Implementation Policies of the Comprehensive Plan.
- Continue to develop the remaining elements of the Comprehensive Plan (Transportation and Infrastructure).

PUBLIC INVOLVEMENT

Description:

Public Involvement includes an on-going dialogue that informs the public about agriculture's economic, environmental, and societal contributions; informs the public of the issues associated with urban sprawl and the loss of our agricultural resource; and solicits public input and evaluation of proposed solutions/tools.

Why Selected:

In order to gain support for agriculture preservation efforts, it is crucial that residents and elected officials understand the contributions of agriculture to Cache County's economy and quality of life. Numerous surveys have already been conducted that show that residents wish to maintain the county's agricultural economy and character. It is important to promote and share the various tools for preserving agriculture and the associated costs of such tools.

Recommended Actions:

- Implement a Public Involvement Strategy that informs the General Public about the economic, environmental, and societal benefits derived from agriculture.
 - Attend meetings and develop alliances with: agricultural groups; civic organizations; environmental groups; hunting and fishing coalitions.
 - Develop concise meaningful easy to read informational pieces that describe the benefits of agriculture and the consequences of sprawl on agriculture and quality of life.
 - Raise grass roots support for preserving agricultural land to facilitate a public financial commitment for establishing an open space and agricultural protection program.
 - Expand "ag awareness in the class room" curricula for public schools. Create hands-on experience on Cache County farms and ranches as part of school curricula.
 - Generate regular press releases for radio and newspaper media.
- Inform Elected Officials of agriculture's contribution to the economy and environment and the importance of their decisions on sustaining agriculture and enhancing our economy
 - Attend meetings and develop alliances with mayors association and city and county councils. Present concepts from the Public Involvement Strategy.
 - Host workshops for planning commissions and elected officials that promote smart growth and a continued agricultural economy and character.
- Offer the public, elected officials, and various interest groups information about agricultural land and open space protection tools/projects. Solicit public input regarding such tools/projects through various outreach mechanisms:
 - Internet site
 - newsletters
 - fact sheets
 - public open houses
 - media
 - public agency coordination
 - interactive display for public places/events (grocery stores, mall, fair, community celebrations)

CLUSTER DEVELOPMENT

Description:

Cluster development allows landowners, who wish to develop a tract of land, to concentrate development in a portion of that tract, leaving the bulk in agricultural use or in other open space. Landowners can therefore enjoy substantial financial benefit from development and can also continue to farm or ranch on the remainder of the tract. At the same time, a substantial amount of open space can be preserved by recorded easement, covenant or deed restriction.

Clustering is recommended in the county master plan and is permitted under state law and in the county subdivision ordinance. To make this mechanism more effective in preserving open space, incentives for landowners need to be provided which may be based on the quantity or quality of the land preserved as measured by appropriate criteria. The County also needs more flexible subdivision procedures. Accordingly, the tool recommended here is (1) increased incentives to encourage landowners to take advantage of cluster development, incentives such as allowing increased density in the developed portion of the tract and providing a more expeditious and less costly subdivision process, and (2) improved flexibility in subdivision regulations which will allow County planners to work with land owners to develop appropriate clustering plans that respond to the landowner's special needs and yet allow for preservation of valuable open space.

Why Selected:

This tool can be highly effective and can be implemented at the County level immediately. It can be implemented in such a way as to provide important assistance to agricultural producers and to minimize the conversion of the most productive agricultural lands. This type of development would provide for a more effective use of land while protecting potential valued agricultural and open spaces lands.

Recommended Actions:

- Encourage cluster subdivisions in the unincorporated area of the county that provide clustered lots that minimize the conversion of agricultural land and open space.
- The current use of major and minor subdivisions are urban by nature and do not encourage preservation of farm land. The Planning Commission and County Council should adopt an Agriculture Open Space Conservation (Cluster) Subdivision Ordinance that includes methods for determining density bonuses.
- The number of lots in a cluster subdivision should be determined by the acreage of farmland/open space that is preserved.
- The Agriculture Open Space Conservation (Cluster) subdivision ordinance should incorporate more conservation design standards to protect farm land and open space.
- Create zoning standards to promote cluster development.

CACHE COUNTY LAND USE ORDINANCE / AGRICULTURE ZONE

Description:

Cache County's current Agriculture Zone is typical of urban "block" style zoning. It does not function as an agriculture zone should. The purpose of the zone and allowed uses are not consistent with each other. The density and development standards are more aligned with that of urban residential zone. It essentially serves as a holding zone for development. There are examples of effective ordinances for Agriculture Zones which include a purpose that makes agriculture the primary, preferred activity. Effective agricultural zoning limits the amount of urban type development that is unrelated to agricultural land uses and activities. It specifically protects prime and high-quality soils. It addresses the need to protect a critical mass of large contiguous blocks of agricultural lands. It segregates agricultural lands from non-agricultural land uses. Effective agricultural zoning permits services and uses which are necessary to support farming activities and encourages long-term investment in improvements needed to maintain and expand agricultural production by creating a stable environment for such production.

Why Selected:

This tool may be the most important for recognizing agriculture as the primary activity to occur within the unincorporated area of Cache County. It can be implemented in such a way as to minimize the conflicts between urban and agricultural uses, while minimizing the conversion of the most productive agricultural lands.

Recommended Actions:

- The Planning Commission and County Council should adopt an Agricultural Zone within the Cache County Land Use Ordinance that includes a strong purpose for preserving agriculture and recognizing it as the primary activity in the Agriculture Zone.
- The Planning Commission and County Council should develop an agricultural zone that encourages uses that support farming activities and discourages uses and activities that promote non-farm development, generate large amounts of traffic, require substantial parking or pose a threat to agricultural water supplies, or other uses that are inconsistent with the purpose of the Agriculture Zone.
- The Planning Commission and County Council should make changes to the subdivision ordinance to encourage the preservation of agricultural land and open space.
- An analysis should be completed to determine the true cost of services to urban development in the unincorporated county. Any development that is approved should be required to pay its fair share of the costs.
- Separate Density from Lot Size: The current zoning ordinance does not differentiate between lot size and overall density. It encourages urban development densities. In order to encourage non-farm housing to locate on smaller lots the Planning Commission and County Council, when approving subdivisions, should consider replacing minimum lot size with maximum lot size. An overall maximum density should also be considered.

AGRICULTURAL PRESERVATION THROUGH MITIGATION

Description:

Some counties have been successful in preserving locally important farm land through agricultural mitigation efforts. Requirement for mitigation could be triggered by a zone change that takes important farmland out of production, or a high density residential subdivision or an intensive commercial or industrial use, or even an annexation. The AAB is currently attempting to figure out how to adopt local mitigation requirements that will meet Utah Code. The intent with the following example is to mitigate each acre taken out of production.

- (1) Granting, in perpetuity, a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism to, or for the benefit of, the County and/or other qualifying entity as acceptable and approved by the County; and, the payment of fees sufficient to compensate for all administrative costs incurred by the County or easement holder inclusive of trust funds for the purpose of legal defense, monitoring and all other services provided; or
- (2) Upon adoption of an Agricultural Conservation Easement Program by the County, payment of an in-lieu fee sufficient to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism consistent with the provisions of this section; and, the payment of fees sufficient to compensate for all administrative costs incurred by the County inclusive of trust funds for the purpose of legal defense, monitoring and all other services provided. The in-lieu fee, paid to the County, shall be used for agricultural mitigation purposes only, i.e. purchases of conservation easements.

Why Selected:

It has long been the attitude of the Agricultural Advisory Board, that when agricultural land is taken out of production, there must be some mechanism for replacing it with land of equal or greater farm value .

Recommended Actions:

An ordinance should be developed to allow for the mitigation of important agricultural lands that are converted to urban uses. The intent of the ordinance should be to preserve agricultural land by replacing the converted land with land of comparable or greater agricultural value through donated conservation easements and/or payments that would allow for the purchase of development rights/conservation easements.

URBAN GROWTH BOUNDARY

Description:

An Urban Growth Boundary is intended to establish the importance of agricultural lands/open space by defining the geographic limit of growth. It is a technique used to discourage sprawl by directing the amount, location, and type of development into areas with services already available, or within easy access. It promotes more compact development that is cost-effective to service.

Why Selected:

Urban Growth Boundary is a strategy listed in the Cache County Countywide Comprehensive Plan to encourage urban development to occur within current and existing urban areas, to maintain agricultural land and open space between existing communities, and to retain the continued use of farm land for present and future generations as a valuable natural resource. This is a tool that gives the county the ability to channel most developments away from key agricultural/open land. This is an effective tool that is being used successfully in other areas of the Country.

Recommended Actions:

- Evaluate urban area of Cache County (Logan Urbanized Area) and implications on agricultural land and open space.
- Work with individual communities to evaluate current annexation policy plans to be more reasonable in protecting agricultural and open space lands and more realistic about the services they will be able to provide.
- Complete a Cost of Service Study for urban development versus agricultural and open space lands.
- Study population growth and define urban growth boundaries for the next 20 years of growth.

CONSERVATION EASEMENTS

Description:

A conservation easement is a legal tool that limits development while allowing continued agricultural uses. Conservation easements are in perpetuity and result in potential income and estate and inheritance tax benefits for landowners and their heirs. A landowner can sell or donate a conservation easement to a qualified organization, which monitors and enforces the terms of the easement.

At present there are a few conservation easements in the County held by the Utah Department of Agriculture and Utah Division of Wildlife Resources. The County should work with partners to promote and inform landowners about conservation easements. Where permitted or required by particular funding sources, the County itself could also receive or acquire conservation easements, either directly or through a private non-profit corporation established by the County.

Why Selected:

Conservation easements are a highly effective tool, and they are supported by public input. County action to promote use of this tool can begin to be implemented immediately. By providing a mechanism which can be tailored to particular situations and which potentially has substantial tax benefits, conservation easements can enlarge the range of financial options which agricultural producers and land owners can take advantage of.

Recommended Actions:

- In partnership with land trusts, community organizations and public agencies that are promoting, acquiring or accepting conservation easements in Cache County, the County should develop a joint strategic plan for promoting use of conservation easements, which would include:
 - Technical assistance to property owners who wish to sell or donate conservation easements
 - Workshops for professional advisors (lawyers, CPA's, appraisers, financial planners, realtors) on conservation easements and estate planning
 - Workshops for landowners on conservation easements and estate planning
 - Develop an outreach brochure explaining conservation easements
- Identify tracts of land that have the highest agricultural/open space values, and begin a dialogue with the landowners of these tracts in an effort to develop appropriate conservation easements
- Develop a County Purchase of Agricultural Conservation Easements program (PACE) that could purchase and accept donated easements that meet the PACE goals.

<p style="text-align: center;">COUNTY PURCHASE OF DEVELOPMENT RIGHTS (PDR) PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS (PACE)</p>
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Description:

A County Purchase of Development Rights (agricultural conservation easements) program would use public funds to acquire conservation easements from willing landowners. The landowner would continue to own and manage the land. The restriction on development would be recorded and retained with the land in the form of a conservation easement.

Any agreement on purchase of development rights can be tailored to meet the specific needs of landowners. The development rights purchased by the County could be held by the county or by entities qualified to hold easements under 170 h of the IRS Code (i.e. Utah State Department of Agriculture, Utah Open Lands, Trust for Public Land, or a newly established county land trust.) The entity which holds the conservation easement becomes responsible for enforcing the development restrictions agreed to when the county purchase development rights through a conservation easement.

A county PDR/PACE program would be developed through a public process and would be tailored to meet the land conservation objectives of county residents and to increase the longevity and viability of agriculture in Cache County.

Why Selected:

This mechanism is consistent with public input and would help to keep producers in business. Since this particular mechanism requires substantial funding, it will be advantageous to purchase rights over a period of time, and to leverage acquisition funds. It can be used to protect very valuable farmland parcels facing imminent development.

Recommended Actions:

(See Appendix 3 for more specific details on developing a County PDR/PACE program)

- Use the Agricultural Advisory Board with assistance from the Planning Commission, County Council, land trusts, and community organizations to oversee the development of the PACE program. Responsibilities could include: program purpose; program guidelines; administrative procedures; assist with job description for county staff to administer program; define programmatic procedures including eligibility criteria, application process, easement document, stewardship and monitoring processes, etc; provide recommendations to county council on priority acquisition projects
- Adopt an ordinance - to fully authorize the establishment of a Cache County PACE program.
- Establish public funding source. (See Appendix 4 for legislation related to existing and potential funding sources.)
- Establish a mechanism for accepting charitable contributions for purchasing agricultural conservation easements and for accepting donated conservation easements.
- Establish the criteria that will be used in evaluating applications
- Develop educational materials and forums
- Establish partnerships with land trusts, community organizations, and public agencies to meet the goals of a County PACE program

PRIVATE LAND TRUST

Description:

A land trust is a nonprofit organization that actively works to conserve land by undertaking or assisting direct land transactions---primarily the purchase or acceptance of donations of land or conservation easements. Land trusts are distinguished by their first-hand involvement in land transactions, monitoring of easements, and/or stewardship oversight. They are governed by a board of trustees charged with the responsibilities of education, fund raising and managing the assets of the land trust for its beneficiaries -- the general public.

Why Selected:

Land trusts have exhibited tremendous success in preserving open lands since the first land trust was established in 1891. In 2000, 3.8 million acres were held in fee-simple and conservation easements. Land trusts prefer conservation easements over fee-simple ownership. From 1990 to 2000, the percentage of land held in conservation easements increased 475 percent, while fee-simple land increased only 186 percent.

Whereas, the sole purpose of a land trust is land preservation, county government has many responsibilities. The mission of a land trust is the long term preservation of the land under its stewardship.

Land trusts may be more effective with land negotiation and may be in a better position to economize stewardship costs than the County.

Recommended Actions:

It is recommended that a County PDR/PACE program have the flexibility to solicit projects from land owners and land trusts, and to allow the most appropriate "qualified entity" (including the county) to hold and monitor conservation easements.

- It may be appropriate for the County Council and Planning Commission to encourage the establishment of a local land trust that could support programmatic goals of the County PDR/PACE program. The mission of the land trust might be to preserve the best and most economically viable farmland in Cache County.
- Contractual agreements could provide for a local land trust (or other land trusts) to negotiate land transactions and monitor easements on behalf of the county.
- Allow land trusts (including a new local land trust) to submit projects to the county for funding consideration.

TRANSFER OF DEVELOPMENT RIGHTS

Description:

Transfer of development rights permits limiting development on one tract of land, in exchange for more intense development on another tract than would otherwise be allowed. The tract where development is limited is often called the “sending area,” and the tract to be more intensely developed is often called the “receiving area.” Thus, it can be said that development rights from the sending area are being transferred to the receiving area. In the current application, the sending area would contain the open space to be preserved, and the receiving area would presumably be located where the County or participating communities wish to see development occur.

Transfer of development rights is essentially a market mechanism made possible by the creation of sending and receiving areas. The landowners of the sending and receiving areas become, respectively, sellers and buyers of development rights. The price of the rights is determined by the market. Typically, the County helps to create the market by limiting density in the receiving area and providing that the limitation will be waived to the extent that development rights have been purchased. The County ensures preservation of open space by recording the development limitations in the sending area. The County can also seek to create receiving areas within municipal boundaries by entering into agreements with municipalities.

The main drawbacks with this tool is the challenge of working with local communities to develop a TDR program. This is a very complex procedure and will require a coordinated effort between jurisdictions to develop a program.

Why Selected:

Transfer of development rights could be a very effective tool for preservation of open space and is consistent with public input. This tool can be implemented at the County level; no state authorization or funding is required. Transfer of development rights could provide substantial compensation to agricultural producers while allowing them to continue operations within the sending district. The *North Logan - Cache County Sensitive Lands and TDR Study* has been completed. This study assessed the economics and the market in Cache County to determine the viability of an inter-jurisdictional transfer of development rights program in Cache County. The study indicates that there is a potential within the local market for using TDR as an option for property owners.

Recommended Actions:

- Work with the County Council and Planning and Zoning Commission to Establish a Transfer of Development Rights program that would promote farmland conservation in high value agricultural areas while encouraging smart growth in developed and developing sections of the county.
- Continue efforts and research with local communities to identify those jurisdictions that would be interested in developing an inter-jurisdictional Transfer Development Rights program..
- Provide education opportunities for communities, developers, real estate agents, and other interest groups as to how TDR programs work.
- Utilize the *Cache County, Utah Agricultural Land Evaluation and Site Assessment (LESA) Handbook* to identify and prioritize critical agricultural landscapes.

LAND EVALUATION SITE ASSESSMENT (LESA)

Description:

The Land Evaluation Site Assessment (LESA) process for evaluating agricultural land was first established by the US Department of Agriculture in 1981. It is a process that allows local units of government to design an evaluation tool for land use decisions that evaluates soil productivity and locally important natural attributes.

Most LESA systems are designed to assign a numerical score to particular parcels of farmland. When used in farmland preservation programs, the LESA scores usually reflect how important each parcel is to the community's overall supply of agricultural land.

A LESA system usually measures two major kinds of qualities associated with parcels of farmland. The first is the Land Evaluation (or 'LE') component, which measures the productivity of the soils for the purposes of agricultural production. The LE component is meant to capture the innate productivity of agricultural soils independent of how a particular producer might be managing the resource.

The second component of a LESA score is related to Site Assessment (or 'SA') factors. These SA factors are qualities of the parcel that go beyond the productivity of the soil. They usually reflect site characteristics that make a parcel more or less attractive for future agricultural activity.

The Cache County Agricultural Advisory Board and its LESA sub-committee spent numerous weekly meetings from December 2002 through June 2003 developing the Cache County, Utah Agricultural Land Evaluation and Site Assessment (LESA) Handbook. The mission statement of which is: "The Cache County LESA System will be used to identify and prioritize which agricultural lands and open range lands should be preserved."

Why Selected:

The LESA is recognized nationally as an effective tool for identifying productive farmland and its importance to the local community. Once adopted this tool provides an objective approach to aid in the prioritization of which lands should be the target of agricultural land and open space preservation efforts. Tremendous effort was undertaken by the LESA subcommittee to develop an objective evaluation system for Cache County. The Cache County LESA handbook has received acclaim from the national Natural Resource Conservation Services office for its comprehensiveness and simple elegance.

Recommended Actions:

- Cache County Council and Planning Commission should adopt the *Cache County, Utah Agricultural Land Evaluation and Site Assessment (LESA) Handbook* to assist in the prioritization of which lands should receive public funding.

- Adopt the LESA to use in identifying sending areas for a Transfer of Development Rights program.
- Adopt and use the LESA to aid in the development of clustering requirements.
- Adopt and use the LESA to identify large blocks of contiguous farmland that should be preserved to protect a critical mass of highly productive farmland.
- Adopt and use the LESA to identify and prioritize conservation easement projects.

TRANSPORTATION PLANNING

Description:

The transportation system is arguably the most important element of any region. The highways, local roads, bicycle and pedestrian routes, public transit, railroads, and other modes of transportation are essential to the every day functions of both urban and non-urban areas. These transportation systems provide mobility for people and goods as well as access to land. The economic health of a region can be determined by the health of it's transportation system. Planning for transportation facilities involves a comprehensive analysis of both the transportation system and land-use patterns to accommodate future changes in demand with minimal cost and negative impacts for the county and communities.

Transportation systems are regional by nature. They provide internal and external mobility for a given region. Cache County's transportation system is a part of a much larger and regional system with the Wasatch Front and the Inter-mountain region. Many of the highways within Cache County provide pass-through travel routes to other destinations in the Inter-mountain Region, as well as access to major employment centers within and outside of Cache County. The transportation system of Cache County and the planning of it can be divided into two segments, the urbanized area and the non-urbanized area. The urbanized area transportation system is planned by the Cache Metropolitan Planning Organization (CMPO) and the non-urban area is planned by Cache County and individual cities. Both segments are planned in cooperation with the Utah Department of Transportation.

The transportation facilities within the jurisdictional boundaries of Cache County are divided into three separate groupings. These groupings are based on the ownership and maintenance responsibility for the public right-of-way and the particular mode of transport. These different transportation facilities make up the transportation networks within Cache County.

Roads and public right-of-ways are under the jurisdiction of different public entities, but they should function as a single regional transportation network. This multiple ownership of roads complicates the planning process for managing the entire transportation system. The coordination of a regional transportation system requires that all of the individual parties look beyond their own jurisdictional boundaries to understand the needs of the system and to understand the benefit in doing so.

Why Selected:

Effective transportation planning should decrease urban sprawl. The creation of urban sprawl has serious implications for farm land loss and traffic congestion. Planning and policies that address the transportation needs of agricultural producers, county residents, and local businesses including corridor access management have implications for farmland conversion and costs of community services.

Recommended Actions:

- Protect our existing transportation infrastructure assets.

- Work with State & Local government to develop and adopt a regional transportation plan with policies and standards that accommodate both rural and urban needs.
- Specifically preserve farm machinery access.
- Coordinate Access Management on all regionally important roads.
- Continue to enhance the Logan City and Cache Valley Transit Systems and to make land use decisions which implement transit oriented development.
- Tie land use decisions to long range transportation plans at both the local and regional levels.
- Develop cooperative relationships with all transportation providers, agencies, the public, and property owners to cultivate on-going communication and issue resolution and guidance.
- Work to strengthen the oversight role of the Cache Valley Initiative Corridor Access Management Team.

AGRICULTURE PROTECTION AREAS (APA)

Description:

Cache County passed the Agriculture Protection Area (APA) law in November 1996. The ordinance, enabled by the Utah Legislature (Title 17, Chapter 41) in 1994 is designed to protect agricultural production lands, to preserve the availability and use of agricultural lands, and to protect the owners of agricultural operations.

The Agriculture Protection Area law can protect landowners from nuisance lawsuits and from unreasonable restrictions from state and local agencies on farm structures and practices. The APA serves as notice to prospective land buyers that they are purchasing land next to a protected farming operation and protects landowners from changes in zoning designations unless all landowners within the APA provide written approval.

Over 4000 acres are included in the 60 Agricultural Protection Areas that have been established in Cache County. The average size of an APA is 68 acres.

Why Selected:

This tool can be quite effective in reducing impacts and conflicts between agriculture and urban land uses in Cache County. With increasing development pressure on agricultural lands, the Agriculture Protection Area law can help protect the agricultural community and the vital contribution it makes to the local economy. This tool is being used more and more by local producers, but there are some weaknesses in the law that should be addressed.

Recommended Actions:

In order to increase the long term viability of agriculture in Agricultural Protection Areas the Cache County Council and Planning and Zoning Commission and State Legislature should strengthen Agriculture Protection Areas with the following actions:

- Clarify the procedure to be followed if land that is within an APA is annexed into a municipality.
- Clarify the procedure to be followed after the APA has been in place for 20 years, wherein the decision must be made to continue, modify or terminate the APA.
- Expand the distance requirement (from 300 feet to 1500 feet) on the plat that is filed with the county recorder providing notification to land owners that they are living in the vicinity of an APA in which normal agricultural uses and activities are afforded the highest priority use status.
- Consider reducing the time required from application to approval with county legislative body.
- Consider disallowing uses that are not compatible with agriculture within APAs. The Planning and Zoning Commission must take into account the purpose of the APA and that land use decisions for properties within APA's should be compatible with or enhance the long term viability of agriculture.
- Encourage multiple landowners to share applications for establishing larger APAs.

GOOD NEIGHBOR POLICY

Description:

A Good Neighbor Policy, presented in the form of a written publication, is intended to educate the public about the expectations of life in the rural agricultural areas of Cache County. A Good Neighbor publication would discuss the provisions of services, agricultural practices, access, property ownership, nature, etc.

The Good Neighbor Policy can be expanded to a “Right to Farm” statement that is recorded with each new property transaction.

Why Selected:

This tool is an effective and inexpensive way to educate the public about agriculture, privately-owned open space and rural expectations. It is a simple tool that could be put into immediate service.

Recommended Actions:

- In order to help residents moving into agricultural areas to understand the farming activities that are likely to occur in their vicinity the County should develop an agricultural notification pamphlet that includes a right to farm statement and describes in detail typical farming activities that new residents will notice and will need to be cautious of.
- The county currently requires that an agriculture clause be recorded with new subdivisions, this should be expanded to require that all new development have an “agriculture disclosure statement” that is signed and recorded with the property.
- Investigate the need for a Neighbor Dispute Committee.

TECHNICAL EDUCATION/ASSISTANCE PROGRAM

Description:

A Technical Education/Assistance Program provides landowners with an understanding of techniques available to landowners to protect open space, keep land in agriculture, and achieve economic and family objectives. (i.e. inter-generational transfers, Ag Protection Areas, clustering, conservation easements, niche markets)

Why Selected:

This type of public outreach/education is targeted directly to landowners. A technical/education assistance publication would reference technical experts who offer landowners a free or limited-cost initial consultation, which does not create a new government program, and it provides guidance directly from the experts.

Examples of Technical Experts:

<u>Zoning:</u>	Cache Countywide Planning and Development Office
<u>Conservation Easements:</u>	Trust for Public Land Utah Open Lands American Farmland Trust Natural Resource Conservation Service (NRCS) USU Cache County Agricultural Extension Agent
<u>Cluster Land Use:</u>	Cache Countywide Planning and Development Office Bio-West Environmental Planning Consultants USU Landscape Architecture and Environmental Planning USU Cache County Agricultural Extension Agent
<u>Wetland Reserve Program (WRP):</u>	Natural Resource Conservation Service
<u>Grassland Reserve Program (GRP):</u>	Natural Resource Conservation Service
<u>Federal Farm and Ranch Protection Program:</u>	Natural Resource Conservation Service
<u>Conservation Reserve Program (CRP):</u>	Natural Resource Conservation Service
<u>Conservation Planning Services:</u>	Natural Resource Conservation Service
<u>Conservation and Engineering Services:</u>	Natural Resource Conservation Service
<u>319 Cost Share for Water Quality Projects:</u>	North Cache and Blacksmith Fork Soil Conservation District
<u>Agriculture Protection Areas:</u>	Cache County Executive, North Cache and Blacksmith Fork Soil Conservation District, Cache Countywide Planning Office
<u>Green Belt Tax Assessment:</u>	Cache County Assessor
<u>Livestock and Crop Production Issues:</u>	USU Cache County Agricultural Extension Agent
<u>Financial Resource Management for Individual Farming Units:</u>	USU Cache County Agricultural Extension Agent
<u>Risk Management:</u>	USU Cache County Agricultural Extension Agent

Recommended Actions:

- County Council delegate the writing of the Technical Education/Assistance publication. The publication would describe the variety of preservation techniques, including tax, financial, and legal aspects and contact information for the technical experts.

IMPROVE FARM PROFITABILITY

Description:

The Agricultural Advisory Board recognizes the link between a strong farm economy and preservation of the land base that supports agriculture. Collaborative efforts must be undertaken by producers, farm agencies, Utah State University, elected officials, and county residents to create new opportunities that will enhance farm profitability. Many such efforts are listed below, and many more are likely to be identified.

Why Selected:

Improving Farm Profitability places emphasis on keeping agriculture producers in business. Any local efforts that can be undertaken to improve farm profitability will decrease the need to sell off farm land to generate income for the producers.

Recommended Actions:

1. Increase the diversity of Cache County's agricultural economy.

A) The AAB should work with Utah State University, Utah Department of Agriculture and Food, Utah Association of Conservation Districts, USDA, NRCS, American Farmland Trust, SARE Sustainable Agriculture Network, RC&D, and other appropriate entities to implement programs that provide organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses that produce value-added agricultural commodities or products.

1. Actively support the establishment of an Agriculture Innovation Center (Section 6402 of the 2002 Farm Bill) at USU that will provide technical assistance to small farmers to help them develop new markets and value added commodities and products.

B) Develop and implement marketing strategies that develop new markets for local producers.

1. Start "Buy Local" programs that connect consumers with local producers:
 - Community Supported Agriculture develops means of enhancing the marketability of locally grown agricultural products. Community Supported Agriculture may be a variety of mechanisms including value added agricultural products, and markets for agricultural products. Community Supported Agriculture places emphasis on keeping agriculture producers in business. Supported by public input and easily accomplished in a reasonable time frame, the directives for Community Supported Agriculture send a clear message to the agricultural community as to their importance in the valley.
 - Subscription Marketing and Community Supported Agriculture (CSA) farms
 - Cooperative Marketing
 - Sales to Restaurants and specialty food stores
 - Direct marketing
 - Adding value through processing
 - Farmers markets

2. Participate and encourage local producers to participate in regional marketing networks such as the Southwest Marketing Network, USDA Agricultural Product Market Development Program and Agricultural Marketing Service (AMS) Wholesale and Alternative Markets program www.ams.usda.gov/directmarketing, and SARE Sustainable Agriculture Network www.sare.org
 3. Investigate markets for organic produce and commodities
 4. Investigate non-food products
 5. Investigate sustainable alternative farming practices and crops
- C) Take Advantage of International Trade Practices
Resource: Institute for Agriculture and Trade Policy www.iatp.org
- D) Develop Recreation and Tourism Opportunities
1. The Bear River Heritage Area has been established to promote heritage tourism and heritage businesses. Such businesses may include dude ranching, farm hand for a day, education on the farm. Other value added opportunities may include corn maze, hunting/fishing. Such businesses are strongly encouraged and should be promoted as part of the activities of the Bear River Heritage Council.
- E) Assist in establishing markets to allow for the production of higher value "cash" crops that can be grown locally.
1. Request that USU, the Utah Department of Agriculture and appropriate farm services agencies institutionalize programs to provide research and technical assistance to help farmers identify new higher value crops that have growing niche markets. Assistance should be further provided to assure access to those markets.
 2. Establish a program through USU Extension to develop Alternative Crop Guides that address planting; weed, pest and disease control; harvest; storage; uses; and marketing and economics of alternative crops that could be grown by local producers. (Similar to Jefferson Institute www.jeffersoninstitute.org)
- F) Identify Value Added Opportunities
1. Promote the Bear River Kitchen Incubator that provides start up assistance for food processing
 2. Encourage the development of speciality food products
 3. Encourage USU Food and Nutrition and Culinary Arts programs to institutionalize a food processing center similar to the University of Nebraska that focuses more on food processing than restaurant service.
- 2. Educate City and County Economic Development Directors and Staff on Agriculture's contribution to our local Economy and Quality of Life.** Help them to be pro-active in enhancing agriculture and developing a long term vision that keeps Agriculture as the Leading Industry.
- 3. Increase opportunities for more viable farm tracts.**

- A) Find ways to help reconsolidate parcels. Help families to reclaim original farmstead parcels. Build upon the century farms program.
 - B) Facilitate Transfer of Land from Farmer to Farmer.
 - C) Establish Purchase of Agriculture Conservation Easements program
 - D) Implement zoning and other policies, ordinances and programs that allow for land to be valued for agriculture rather than speculative development
 - E) Promote larger farm tracts as appropriate
- 4. Work to enhance the opportunities for future farmers by developing an active network of organizations committed to providing programs, services and advocacy for new farmers.**
- A) Develop programs that link future farmers with retiring farmers
 - B) Develop a Beginning Farmer Program that provides mentoring and technical assistance to beginning farmers regarding farm financial management, crop production, dairy health, record keeping, personnel & labor management, risk management, market access, and farm conservation
 - C) Establish Revolving Loan Fund for Beginning Farmers
 - 1. Explore financing needs and existing resources with commercial banks, Farm Service Agencies, USDA, and Utah Department of Agriculture and Food. Identify gaps and make appropriate recommendations.
 - D) Programs for planning farm transfers should be available
- 5. Explore various cooperative arrangements.**
- A) Farm Equipment Co-Ops
 - B) Shared trucking opportunities for out of state distribution and supplies
 - C) Marketing Co-op
 - D) Shared labor pool (similar to SOS) that would allow farmers to take a few days off without worrying about who will milk the cows.
- 6. Support State and Federal Legislative Relief for hard farming years.**

ENSURE ADEQUATE WATER QUALITY AND QUANTITY FOR IRRIGATION AND MUNICIPAL AND INDUSTRIAL (M&I) NEEDS IN CACHE COUNTY.
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Description:

The Cache County Council appointed the Cache County Water Policy Advisory Board to research, review and recommend policies pertaining to the coordination of water resources, planning and management to insure an adequate, safe, secure, and economical supply of high quality water to meet the current and future needs of residents, agriculture, industry, recreation, and the environment of Cache County. Findings of the Water Policy Advisory board will have implications for storm water management, protection of ground recharge areas, allowable densities for septic tanks, and other issues that argue for guiding development away from important agricultural lands and open spaces.

Why selected:

In addition to supporting the residents of the Cache County, adequate water quality and quantity are critical to maintaining a viable agricultural economy. Water quality and quantity issues must be addressed in a coordinated manner. Agricultural and open lands provide many natural functions that help maintain water quality and ground water recharge. Irrigation and irrigation canals aid in recharging groundwater supplies. On the other hand, urban development such as homes, septic tanks and poor storm water management practices are potential sources of groundwater and surface water contamination.

Recommended Actions:

The Cache County Council, Agricultural Advisory Board, Planning Commission, and Water Policy Advisory Board should support, promote, and assist in the following strategies:

- Improve Storm Water Management/and cooperation between canal companies and municipalities on this issue and associated liability issues.
- Define irrigation's contribution to ground water recharge through monitoring in a supporting role to U. S. Geological Survey and Utah Division of Water Rights efforts.

Support any funding opportunities and efforts that assist in the collection of data that demonstrates ground water recharge from irrigation.

- Maintain Groundwater Quality Protection, and support the setting of reasonable degradation limits on groundwater through using all available technical tools as a non-arbitrary way of protecting both land and water resources.
- Educate the public regarding water conservation in both the quantitative and qualitative dimensions.
- Increase water storage capacity of below and above ground water sources according to the least costly solution. Intangible values, social costs or benefits, direct or indirect, must be included in the economic analysis.

III. CONCLUSIONS

A Cache County agricultural preservation program should include a multitude of tools. Since February of 2002 the Cache County Agricultural Advisory Board has been studying what tools have been effective in other parts of the country and what tools could work to preserve the agricultural economy and character of Cache County. These tools have been described in this single document.

The Agricultural Advisory Board recognizes that some of these tools are easier to implement than others. While some will take more effort to put into effect, they may be more effective in accomplishing the goals of agricultural land preservation that are shared by so many Cache County residents.

The importance of maintaining and building new partnerships to carry out a county agricultural preservation program is absolutely essential. The task is greater than the resources of any single organization.

The definition of responsibilities, timing, and funding for implementing these tools is an on-going process. The Agricultural Advisory Board looks forward to working with the Cache County Council and Planning Commission in mapping a course for implementing the methods in this tool box to preserve the county's agricultural economy, open lands, and quality of life.

APPENDIX 1 - AGRICULTURAL ADVISORY BOARD MEMBERS

North Cache Conservation District Board:

Wes Roundy, 5670 North HWY 23, Cache Junction, Utah 84304

Black Smith Fork Conservation District Board:

Richard Nielsen, 4155 South Main Street, Nibley, UT 84321

Professional Planner:

Chris Sands, Bio-West Inc., 1063 West 1400 North, Logan, Utah 84321

Agricultural Processing Industry:

Dolores Wheeler, Gossners Foods, Inc., 1000 West 1000 North, Logan, Utah 84321

Citizen Advocate of Locally Grown Products for Local Consumption:

Bill Oblock, Crumb Brothers Bakery, 9094 North 2000 East, Richmond, Utah 84333

Cache County Council:

John Hansen, 266 East Main, Hyrum Ut 84319

Mayors Association:

Mayor Kip Panter, Richmond, Utah

Cache County Planning Commission:

Linda Christiansen, 6600 South 1800 West, Hyrum, Utah 84319

Developer/Realtor/Homebuilder:

Paul Willie, Wasatch Properties, 650 West 300 North, Mendon, Utah 84325

Agricultural Economist from USU:

Keith Criddle, USU Department of Economics, 3530 Old Main Hill, Logan, Utah 84322-3530

Business Community:

Randy Weston, Property Management, 447 North Main Street, Logan, Utah 84321

Financial Industry:

Garr Morrison, Lewiston State Bank, P.O. Box 32, Lewiston, Utah 84320

Agricultural Producers*

Joe Fuhrman, 2400 South HWY 165, Nibley, UT 84321

Val Jay Rigby, 106 East Main, Newton, UT 84327

Lane Parker, 231 Harvest Drive, Providence, UT 84332

APPENDIX 2 - EX-OFFICIO AGRICULTURAL ADVISORY BOARD MEMBERS

Bear River Association of Governments

Glen Busch
Jeff Gilbert
Cindy Hall

Bear River RC&D

Scott Ferguson

Cache County Cattleman's Association

Jon White

Cache Chamber of Commerce

Bobbie Coray

Cache County Countywide Planning and Development Office

Mark Teuscher

Cache County Farm Bureau

Loren Wallace

Cache Metropolitan Planning Organization (CMPO)

Jay Aguilar

Cache County Water Policy Advisory Board

Thad Erickson

Farm Service Agency

Bruce Lundquist

Farmers Union

W. Lee Reese

Legislative Issues

Jon Meikle

Natural Resource Conservation Service

Jon Hardman

Trust for Public Land

Alina Bokde

USU Cooperative Agricultural Extension

Clark Israelsen

USU College of Natural Resources

Dick Toth

USU LAEP

David Bell

USU Sociology, Social Work, Anthropology

Douglas Jackson-Smith

USU Western Rural Development Center

Theresa Selfa

Sustainable Agriculture Association of Bear River Area

Penny Trinca

Utah Division of Wildlife Resources

Dennis D. Austin

Utah State Department of Agriculture

David H. Clark, Ph.D.

<p style="text-align: center;">APPENDIX 3 CACHE COUNTY PDR/PACE PROGRAM DEVELOPMENT</p>

1. **Form a PACE committee** consisting of the Agricultural Advisory Board with assistance from the Planning Commission, County Council, land trusts, and community organizations to oversee the development of the PACE program:
 - define program purpose
 - develop program guidelines
 - develop administrative and other procedures
 - give input to County on job description for a program administrator and possible serve on hiring team
 - conducting an annual review of the program to ensure its consistency with county agricultural land protection goals
 - provide recommendations to County Council on priority acquisition projects
2. **Write a statement of purpose** - a very specific statement of purpose will:
 - direct program development and administration
 - use for public education and outreach

This statement of purpose will also define the breadth of the program, i.e., which county agricultural lands are eligible, will the program acquire perpetual and term easements, will it try to generate funding to purchase land fee simple?

3. **Conduct an extensive public education campaign** - to target landowners and the general public. This will continue to build public support to develop a local funding source for PACE.
4. **Establish public funding source** - to provide primary funding for a Cache County PDR/PACE program (rollback taxes, increase in property taxes, bonding). [The Utah State Code severely limits the opportunities for public funding sources such as sales tax. See Appendix 3 for legislation related to existing and potential funding sources.]
 - Work with County Council to place bond issue on the 2004 ballot for voters to consider.

[An Opinion Poll was created for Cache County by Trust for Public Land. It was conducted by Information Alliance during May 8-16, 2003. Three-hundred “likely” voters were questioned with a margin of error of $\pm 5.66\%$. Survey results showed that there is strong support for a proposal to issue general obligation bonds in order to fund land conservation through the acquisition of conservation easements to benefit the county. Some of these benefits include protecting water quality, preserving the county’s rural character, and preserving working farms and ranches.]

5. **Adopt an ordinance** - to fully authorize the establishment of a Cache County PACE program.

- 6. Establish a mechanism for accepting charitable contributions** for purchasing agricultural conservation easements and for accepting donated conservation easements.
- Establish the Cache County Agricultural Conservation Easement community foundation fund project within the County's existing 501c(3) foundation for the purpose of accepting donations for purchasing conservation easements.
 - Coordinate with the private sector to establish a local land trust 501c(3).
 - Investigate local fund raising options - for example, local businesses and foundations and Cache Valley Initiative.
- 7. Establish partnerships** - with land trusts that might hold conservation easements and provide guidance on the County's PACE program.
- 8. Assist the County in developing the job description and hiring of a PACE program administrator.**
- The Administrator would administer the PACE program for the county and would develop procedures with respect to county departments who will provide services to the PDR/PACE program (Attorney's Office - review of easement language; County Assessor - appraisals/easement value; Recorder's Office - ensuring easements are recorded; Countywide Planning and Development Services Department - land use and land management; Public Health Department - groundwater and surface water issues; etc.
- 9. Establish threshold eligibility criteria and ranking criteria** that will be used in accepting and evaluating applications. (The AAB has examples from other PDR/PACE programs)
- These criteria will adhere to the program purpose and might include:
- acreage minimum
 - agricultural income requirement
 - voluntary landowner
 - ranking obtained from applying the LESA system
 - location with respect to current infrastructure/threat of development
 - proximity to body of water
 - presence of valuable plant/animal species
 - cost per acre and or cost/benefit analysis
 - public support (letters of support)
 - clustering potential with respect to other (protected) properties
 - buffering potential (parcel protects the adjacent natural areas, important open spaces, rivers, streams and lakes by reducing current or future negative impacts)
 - existence of a conservation plan that addresses an environmental problem
 - critical mass
 - leverage of fund
 - extent of land owner donation

Most existing programs create a standardized form that acts as a scorecard for prioritizing purchases. The scorecards usually index the costs of the easement, development pressures on the land, condition of the land, environmental benefits of preservation, and proximity to other preserved lands (programs favor creation of habitat corridors rather than islands of conserved properties).

10. Develop a PDR/PACE program application form - develop a form that helps streamline the processing of applications to the program and identifies owners, property location, acreage, zoning, type of conservation plan if any, any additional information that helps define the property and/or its eligibility for the program. The form would address components of the eligibility/ranking criteria.

11. Establish programmatic procedures and resolve issues - specify the following:

- What is the duration of the easement? (In order for a conservation easement to qualify under 170h of the Uniform Tax Code, and therefore receive any credit for a donation, the term of the easement has to be perpetual. With term limited easements, the County could never enter into a bargain sale conservation easement where the donor receives a tax deduction for the value they contributed because the easement would not qualify under 170h.)
- How will easement valuation be determined?
- Who pays for appraisals? How many are conducted on a parcel?
- Who pays for other transactions costs?
- Who will hold the easements?
- How will payment for easement be disbursed?
- Will a price cap (per acre) on easement purchases be developed?
- What is the average timeline to closing a landowner should anticipate when considering the program?
- Is easement termination allowed? If so, after how long a period?

12. Define the application process - detail the process of landowner application to the PACE program, including how often and when applications will be accepted. An example follows:

- landowner or land trust submits application to PACE program;
- Agricultural Advisory Board evaluates the property with respect to LESA or other ranking criteria and makes recommendation to County Council on priority projects
- all applying conservation easements are ranked with respect to one another and properties are selected depending on funds available;
- County council accepts, rejects or amends Board's recommendation and directs program administrator to negotiate the acquisition of the agricultural conservation easements;
- conservation easement is appraised by a certified appraiser;
- landowner/land trust and program administrator negotiate terms of easement and all other due diligence;
- easement document is prepared;
- baseline report of property is prepared to document the condition of the property at the time of easement purchase and to detail the natural values of the parcel;
- closing and payment to landowner;
- easement is purchased and recorded with the deed to the property in question.

13. Develop easement guidelines - that generally talk about permitted and restricted uses.

14. Define stewardship and monitoring guidelines - establish conservation and stewardship goals with guidance from NRCS, Cooperative Extension, and land trusts, including the following:

- specify any management plan the landowner must implement & accompanying landowner education.
- easement holder responsibilities (annual visits).

15. Develop and distribute outreach materials - develop brochure that explains the program goals and procedures program, step by step.

16. Provide education - hold educational forums to explain this process to County government staff, landowners, interested citizens, land trusts and other partners.

17. Determine roles for other entities - define the roles of other organizations or entities that might be involved in a county PDR/PACE program (the County Council, County Administration, County staff, the Agricultural Advisory Board, public agencies, and any land trusts involved in the program).

APPENDIX 4 Legislation Related to Existing and Potential Funding Resources for Conservation Easements

Description:

The Cache County Agricultural Advisory Board has worked with local legislators, the Governor's Office of Planning and Budget, and national land preservation organizations to evaluate public funding opportunities for a County Purchase of Agricultural Easements Program. The only opportunity that is currently available, based on State Statutes, is property tax.

Listed below are the options that the AAB evaluated:

1. Real estate transfer tax

Many counties across the country rely on a special tax that is generated as a percentage of real estate sales to purchase conservation easements. The State of Utah is a non-disclosure state which means that real estate transactions are not required to be public, thus there is no price disclosed on which to base a real estate transfer tax.

Note: County Assessors across the state of Utah have tried to change State Code to require disclosure of real estate transactions. They do not believe that the legislature will ever support such a change. No recent attempts have been made to pass legislation regarding a real estate transfer tax for conservation purposes.

2. Sales tax

Three attempts have been made at the state legislative level to pass a bill allowing for a local sales tax option of 1/8 of 1% for the purchase of agricultural land and open space conservation easements, including :

- a) "an act relating to the sales and use tax act; authorizing a county to impose a sales and use tax for the acquisition of conservation easements only for agricultural or water source protection use" (HB 50; 1998).
- b) "an act relating to revenue and taxation; providing definitions; authorizing a county to impose a sales and use tax for agricultural land, open land, or recreational facilities" (HB 125; 1999).

Note: Numerous sources suggest that this will never pass because of the land development orientation of the State Legislature, because of efforts to stream line the sales tax formulae, because of urban interests versus rural interests.

3. Property tax

Each county legislative body levies a tax on the taxable real and personal property within that county. In its computation of the total levy subject to Sections 59-2-908 and 59-2-911, it shall determine the requirements for each fund and specify the amount of the levy apportioned to each fund (17-36-31). The maximum property tax levy is as follows:

- (a) .0032 per dollar of taxable value in all counties with a total taxable value of more than \$100,000,000; and
- (b) .0036 per dollar of taxable value in all counties with a total taxable value of less than \$100,000,000 (59-2-908).

The county may impose a tax rate in excess of the limitation provided, if the limitations provided above generate less revenue than the certified tax rates established in Subsection 59-2-924(2) (59-2-908).

Exceptions to the maximum levy amounts listed in 59-2-908 above include levies made in any special improvement district and levies made for extended services in any county service area (59-2-911).

However, beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues (59-2-924).

Note: This is the most viable public funding source for purchasing conservation easements, but it does not require a vote of the public. The Cache County Council has indicated they will not raise property taxes to purchase agricultural conservation easements without voter approval.

4. Special district taxation authority

"Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi governmental entity that is not a county, municipality, school district, or unit of the state (17 27 103).

Special districts may only be created to provide services authorized by the Utah Code (Title 17B, Chapter 2, Part 2, Creation of Local Districts). "Special district" means any district formed under the laws of the state including, but not limited to: (a) cemetery maintenance districts; (b) municipal improvement districts; (c) special service districts and special service improvement districts; (d) county water and sewer improvement districts; (e) county improvement districts; (f) fire protection districts; (g) county service areas; (h) county planetariums; (i) county zoos; (j) mosquito abatement districts; (k) metropolitan water districts; (l) water conservancy districts; (m) irrigation districts; (n) drainage districts; and (o) all other political subdivisions of the state with the authority to tax or to expend public funds or which receive tax exempt status for bonding or taxing purposes, except counties, cities, towns, and school districts.

Special districts may levy taxes as follows:

Class A. To levy and collect taxes upon all property within the district as hereinafter provided.

Class B. To levy and collect assessments for special benefits accruing to property within municipalities for which use of water is allotted as hereinafter provided.

Class C. To levy and collect assessments for special benefits accruing to lands within irrigation districts for which use of water is allotted as hereinafter provided.

Class D. To levy and collect assessments for special benefits accruing to lands for which use of water is allotted as hereinafter provided (17A-2-1422).

Note: The Special Service District would have to be changed to allow Agriculture and be sure that conservation easements are allowed expenditures.

5. Bonding authority

Public bodies may issue bonds including a county, city or town, special district (17A 2 306 in accordance with Title 11, Chapter 14, Utah Municipal Bond Act), any separate legal or administrative entity created under the Interlocal Cooperation Act, or any other political subdivision, public authority, public agency, or public trust existing under the laws of the state (11-31-2).

Note: This is the most viable option for a public funding source for purchasing conservation easements as part of a County program.

6. Impact fees

"Impact fee" means a payment of money imposed upon development activity as a condition of development approval. It does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee (11-36-102). Before imposing impact fees, each local political subdivision shall prepare a capital facilities plan to identify: (i) demands placed upon existing public facilities by new development activity; and (ii) the proposed means by which the local political subdivision will meet those demands (11-36-201).

As defined in this section, "public facilities" means only the following capital facilities that have a life expectancy of ten or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

- (a) water rights and water supply, treatment, and distribution facilities;
- (b) wastewater collection and treatment facilities;
- (c) storm water, drainage, and flood control facilities;
- (d) municipal power facilities;
- (e) roadway facilities;
- (f) parks, recreation facilities, open space, and trails; and
- (g) public safety facilities (11 36 102).

A local political subdivision may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received (11-36-201).

In calculating the impact fee, each local political subdivision may include:

- (i) the construction contract price;
- (ii) the cost of acquiring land, improvements, materials, and fixtures;
- (iii) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
- (iv) debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements (11-36-202).

The local political subdivision may include a provision in the impact fee enactment that... allows a credit against impact fees for any dedication of land for, improvement to, or new construction

of, any system improvements provided by the developer if the facilities: (i) are identified in the capital facilities plan; and (ii) are required by the local political subdivision as a condition of approving the development activity. Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation (see 11-36-202).

A private entity may only impose a charge for public facilities as a condition of development approval by imposing an impact fee. A private entity shall comply with the requirements of this chapter before imposing an impact fee (11-36-501).

Note: Agricultural open space has not been defined as specific infrastructure required for development, and thus a fee to replace agricultural land does not meet the current statute. No efforts have been made to change the Impact Fee statutes to consider fees for taking important agricultural land out of production.

7. LeRay McAllister Critical Land Conservation Fund

The "LeRay McAllister Critical Land Conservation Fund" is funded through a) money appropriated or otherwise made available by the Legislature; (b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations; (c) proceeds that a department chooses to place into the fund from the sale of surplus land under Subsection (2); and (d) funds from the State Building Energy Efficiency Program. The Department of Administrative Services, the Department of Agriculture and Food, the Department of Natural Resources, and the Department of Transportation may place proceeds from the sale of surplus land into the fund. The total amount of money in the fund may not exceed \$6,000,000 (11-38-301).

This fund shall be used for preserving or restoring open land and agricultural land. Except as provided in Subsection (2)(b)(ii), money from the fund may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land. Money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if: a) parcel to be purchased is no more than 20 acres in size; and b) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property. (11-38-302).

Thirty-one projects were funded from 1999 through 2002 with \$8,835,223 in LeRay McAllister funds, \$43,372,714 in match, preserving and/or restoring 33,553 acres.

Note: The legislature appropriated as much as \$2,861,760 to the LeRay McAllister Fund in 2000. They only appropriated \$482,600 in FY 2003 and FY 2004.

8. Agriculture Resource Development Loan Fund

"The Division of Agricultural Development in conjunction with the administration of the rural rehabilitation program is authorized to:

- (1) approve and make farm loans subject to Section 4-19-3, take security for such loans through mortgages, trust deeds, pledges, or other security devices; purchase promissory notes, real estate contracts, mortgages, trust deeds, or other instruments or evidences of indebtedness; and collect, compromise, cancel, or adjust claims and obligations arising out of the administration of the rural rehabilitation program;
- (2) purchase or otherwise obtain property in which the division has acquired an interest on account of any mortgage, trust deed, lien, pledge, assignment, judgment, or other means at any execution or foreclosure sale;
- (3) operate or lease, if necessary to protect its investment, any property in which it has an interest or sell or otherwise dispose of such property."

Note: The Agriculture Resource Development Loan Fund was created in Section 4-18-6 and is usually approved for developing water resources and is not intended to be used for conservation easements.

9. Critical Agricultural Land Conservation Fund

Fund created by legislature in 1998 to purchase conservation easements as a means to protect prime and state important farm land in Utah. Since 1998 the Critical Agricultural Land Conservation Fund received \$100,000 each year, but only \$50,000 in FY 2002-2003 and FY 2003-2004. Five projects have been funded. Two in Cache County. Fund is still viable and active as a matching source for conservation easements.

Note: It currently does not have funds and requires an annual appropriation by the legislature. Each year the Department of Agriculture makes a request to the State Legislature to appropriate funds to the Critical Agricultural Land Conservation Fund.

10. Greenbelt (Farmland Assessment Act)

The State Legislature was asked to consider increasing the current rollback provision of land in Greenbelt (Farmland Assessment Act) from the current five years to as much as ten years. The very land going out of agricultural production would generate dollars to purchase the development rights of agricultural land that would stay in production. In Cache County this could add approximately \$200,000 per year to the annual collection. These funds could leverage as little as \$600,000 or as much as \$2,000,000 each year. The rollback tax is paid only if land is actually taken out of agricultural production. Land that is placed in a conservation easement is totally exempt from this assessment.

Note: This did not gain support of the Legislature in the 2003 session.